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| BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980 | | | EXAMINER COLBERT, ELLA | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/822,484 | Applicant(s) ASHER ET AL. | |
| | Examiner Ella Colbert | Art Unit 3696 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-47 are pending. Claims 1- 3 have been amended in this communication filed 02/15/08 entered as Response After Non-Final Action.

The IDSs filed 06/29/07 and 11/28/07 has been considered and entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 2004/0229671) Stronach in view of (US 6,067,532) Gebb.

Claim 1. Stronach teaches, A computer-implemented method performed using a computer system for conducting an exchange of an activity entry between a buyer and a seller the computer system comprising one or more processing units and one or more memory units, the method comprising: determining a first set of entries in an activity, at least one entry to be determined a winning entry based on an occurrence of an event associated with the activity (page 3, col. 1 [0044]-col. 2 [0048]); using the computer executing a first initial distribution of the first set of entries to at least one buyer (pg. 4, col. 1 [0051]-col. 2 [0059], page 7, col. 2 [0075]-page 8, line 10 and [0077]-col. 2, line 8). Stronach failed to disclose, using the computer system, conducting trading, of at least one of the entries included in the first distribution, between the at least one buyer and at least one seller. Gebb discloses, using the computer system, conducting trading, of at least one of the entries included in the first distribution, between the at least one buyer and at least one seller (col. 5, lines 46-65 and col. 6, lines 40-63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Gebb in Stronach because such an incorporation would allow Stronach to have where the buyer can select the most convenient method of buying (trading) from the seller.

Claim 2. Stronach teaches, A computer-implemented method performed using a computer system for conducting an exchange of an activity entry between a buyer and a seller the computer system comprising one or more processing units and one or more memory units, the method comprising: determining a first set of entries in an activity, at least one entry to be determined a winning entry based on an occurrence of an event

associated with the activity (page 3, col. 1 [0044]-col. 2 [0048]); using the computer executing a first initial distribution of the first set of entries (pg. 4, col. 1 [0051]-col. 2 [0059], page 7, col. 2 [0075]-page 8, line 10 and [0077]-col. 2, line 8). Stronach failed to teach, using the computer system, conducting trading, of at least one of the entries, between the at least one buyer and at least one seller. Gebb teaches, using the computer system, conducting trading, of at least one of the entries, between the at least one buyer and at least one seller (col. 5, lines 45-65).). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Gebb in Stronach because such an incorporation would allow Stronach to have where the buyer can select the most convenient method of buying (trading) from the seller.

Stronach further teaches, wherein the step of conducting trading comprises: receiving, from a first user, at least one buy request associated with at least one entry of the first set of entries (page 2 [0042] –page 3, col. 1, line 13); receiving, from a second user, at least one sell request associated with the at least one entry of the first set of entries (page 5, col. 1 [0060]); matching the at least one buy request with the at least one sell request; and transferring the at least one entry of the first set of entries from the second user to the first user (page 8, col. 2 [0079] –page 9, col. 1[0080]-[0082]).

Claim 3. Stronach teaches, A computer-implemented method performed using a computer system for conducting an exchange of an activity entry between a buyer and a seller the computer system comprising one or more processing units and one or more memory units, the method comprising: determining a first set of entries in

an activity, at least one entry to be determined a winning entry based on an occurrence of an event associated with the activity (page 3, col. 1 [0044]-col. 2 [0048]); using the computer executing a first initial distribution of the first set of entries to at least one buyer (page 4, col. 1 [0051]-col. 2 [0059], page 7, col. 2 [0075]-page 8, line 10 and [0077] –col. 2, line 8). Stronach failed to teach, using the computer system, conducting trading, of at least one of the entries included in the first distribution, between the at least one buyer and at least one seller. Gebb teaches, using the computer system, conducting trading, of at least one of the entries included in the first distribution, between the at least one buyer and at least one seller (col. 5, lines 45-65). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Gebb in Stronach because such an incorporation would allow Stronach to have where the buyer can select the most convenient method of buying (trading) from the seller.

Stronach further teaches, wherein the step of conducting trading comprises: receiving, from a first user, a buy order associated with at least one entry of the first set of entries (page 7, col. 1 [0075] –page 8, line 10). Stronach failed to teach, receiving, from a second user, a short sale order associated with the at least one entry of the first set of entries; matching the buy order with the at least one short sale order to create a short sale; settling, at a predetermined time, the short sale. Gebb teaches, receiving, from a second user, a short sale order associated with the at least one entry of the first set of entries (col. 6, lines 40-63); matching the buy order with the at least one short sale order to create a short sale (col. 6, line 64-col. 7, line 13 and lines 42-52); settling, at a

predetermined time, the short sale (col. 8, line 3-29). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Gebb in Stronach because such an incorporation would allow Stronach to facilitate wagering on race events and other events.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 2004/0229671) Stronach in view of (US 6,067,532) Gebb US 2002/0082969 A1) O'Keeffe et al, hereafter O'Keeffe.

Claim 4. Stronach teaches, wherein executing a first initial distribution comprises conducting a lottery for the first set of entries (page 6, col. 2, paragraph [0070] –[0071]).

Claim 5. Stronach and Gebb failed to teach, wherein executing a first initial distribution comprises conducting an auction for the first set of entries. O'Keeffe teaches, wherein executing a first initial distribution comprises conducting an auction for the first set of entries (page 3, col. 2, paragraph [0032]-[0033]).

Claim 6. Stronach failed to teach, The method of claim 1, further comprising, executing a second initial distribution of a second set of entries for the first activity and conducting trading of at least one of the second set of entries. Gebb teaches, The method of claim 1, further comprising, executing a second initial distribution of a second

set of entries for the first activity and conducting trading of at least one of the second set of entries (col. 6, lines 40-63 –second set of redistribution entries).

Claim 7. Stronach failed to teach, The method of claim 6, wherein the trading of entries of the first set of entries is discrete from the trading of entries of the second set of entries. Gebb teaches, The method of claim 6, wherein the trading of entries of the first set of entries is discrete from the trading of entries of the second set of entries (col. 6, line 64-col. 7, line 13).

Claim 8. Stronach failed to teach, The method of claim 6, wherein the trading of entries of the first set of entries is commingled with the trading of the second set of entries. Gebb teaches, The method of claim 6, wherein the trading of entries of the first set of entries is commingled with the trading of the second set of entries (col. 7, lines 20-41).

Claim 9. Stronach failed to teach, The method of claim 1, further comprising: executing a second initial distribution of a second set of entries for a second activity and conducting trading of at least one of the second set of entries. Gebb teaches, The method of claim 1, further comprising: executing a second initial distribution of a second set of entries for a second activity and conducting trading of at least one of the second set of entries (col. 8, lines 12-43).

Claim 10. Stronach failed to teach, The method of claim 9, wherein the first activity is the same type of activity as the second activity. Gebb teaches, The method of claim 9, wherein the first activity is the same type of activity as the second activity (col. 8, lines 12-43).

Claim 11. Stronach failed to teach, The method of claim 9, wherein the first activity is a different type of activity from the second activity. Gebb teaches, The method of claim 9, wherein the first activity (col. 5, lines 25-65) is a different type of activity from the second activity (col. 8, lines 12-43).

Claim 12. this dependent claim is rejected for the similar rationale as given above for claim 7.

Claim 13. this dependent claim is rejected for the similar rationale as given above for claim 8.

Claim 14. Stronach and Gebb failed to teach, wherein the trading of the first set of entries comprises conducting an auction of at least one entry of the first set of entries. O'Keeffe teaches, wherein the trading of the first set of entries comprises conducting an auction of at least one entry of the first set of entries (page 9, col. 1, paragraph [0101]).

Claim 15. Stronach and Gebb failed to teach, conducting the auction comprises receiving from a first user a request to auction at least one entry held by the first user, and receiving from a second user a first bid request for the at least one entry. O'Keeffe teaches, conducting the auction comprises receiving from a first user a request to auction at least one entry held by the first user, and receiving from a second user a first bid request for the at least one entry (page 3, col. 2, [0032]).

Claim 16. Stronach and Gebb failed to teach, receiving from a third user a second bid request higher than the first bid request and transferring the at least one entry to the third user. O'Keeffe teaches, receiving from a third user a second bid

request higher than the first bid request and transferring the at least one entry to the third user (page 7, col. 1, paragraph [0072]-col. 2, line 9).

Claim 17. Stronach failed to teach, The method of claim 1, wherein the activity is a sports activity. Gebb teaches, The method of claim 1, wherein the activity is a sports activity (col. 1, lines 31-38).

Claim 18. Stronach teaches wherein the activity is an entertainment activity (page 2, col. 2 [0043]-page 3, col. 1, line 13).

Claim 19. Stronach teaches, wherein the activity is a competition. Young teaches wherein the activity is a competition (page 3, col. 1 [0044]).

Claim 20. Stronach failed to teach, The method of claim 1, wherein the activity is a financial market activity. Gebb teaches, The method of claim 1, wherein the activity is a financial market activity (col. 2, lines 11-27).

Claim 21. Stronach teaches, wherein the activity is a tournament. Young teaches, wherein the activity is a tournament (page 6, col. 6 [0070] –page 7, col. 2, line 37).

Claim 22. Stronach failed to teach, wherein the activity is a single game. Gebb teaches, wherein the activity is a single game (col. 3, lines 20-34).

Claim 23. Stronach failed to teach, wherein the activity is a basketball tournament.

Gebb teaches, wherein the activity is a basketball tournament (col. 3, lines 34-42).

Claim 24. Stronach, Gebb and O’Keeffe failed to teach, The method of claim 1, wherein the activity is a political election. It would have been obvious to one having ordinary skill in the art at the time the invention was made that the activity is a political election and to modify in Stronach because such a modification would allow Stronach’s system to support several different types of activities. It is well known by POSITA that a political election is considered an activity and something that can have tickets auctioned or a lottery for tickets to attend the political dinners, fundraisers, and the other political events surrounding the election.

Claim 25. Stronach teaches, The method of claim 1, further comprising: accepting payment for the entry from the first user (page 5, col. 1 [0062]-col. 2, line 3).

Claim 26. Stronach teaches, The method of claim 1, further comprising accepting confirmation of payment for the entry by the first user (page 8, col. 2 [0079]-page 9, col. 1, line 6 –col. 2 [0084]-page 11, col. 2 [0096]).

Claim 27. Stronach failed to teach The method of claim 1, further comprising using the computer systems the step of distributing all or a portion of the entries in a single bundle to one or more users. Gebb teaches, The method of claim 1, further comprising using the computer systems the step of distributing all or a portion of the entries in a single bundle to one or more users (col. 6, line 64-col. 7, line 12).

Claim 28. Stronach failed to teach The method of claim 27, wherein the single bundle is distributed prior to conducting the after-market trading of the first set of entries. Gebb teaches, The method of claim 27, wherein the single bundle is distributed prior to conducting the after-market trading of the first set of entries (col. 8, lines 3-11).

Claim 29. Stronach failed to teach, The method of claim 27, wherein the single bundle is distributed after commencement of the after-market trading of the first set of entries. Gebb teaches, The method of claim 27, wherein the single bundle is distributed after commencement of the after-market trading of the first set of entries (col. 8, lines 12-43).

Claim 30. Stronach and Gebb failed to teach, The method of claim 1, wherein conducting the trading comprises receiving a short sell order from a first user and a buy order from a second user. O'Keefe teaches, The method of claim 1, wherein conducting the trading comprises receiving a short sell order from a first user and a buy order from a second user (col. 1, page 9 [0101]).

Claim 31. Stronach and Gebb failed to teach, The method of claim 1, wherein the trading comprises conducting at least one transfer of at least one entry. O'Keefe teaches, The method of claim 1, wherein the trading comprises conducting at least one transfer of at least one entry (col. 2, page 9 [0105]).

Claim 32. Stronach failed to teach, The method of claim 1, wherein the trading comprises conducting at least one sale of at least one entry. Gebb teaches, The method of claim 1, wherein the trading comprises conducting at least one sale of at least one entry (col. 8, lines 44-62).

Claim 33. Stronach failed to teach, The method of claim 1, wherein the trading comprises conducting at least one short sale. Gebb teaches, The method of claim 1, wherein the trading comprises conducting at least one short sale (col. 7, line 53-col. 8, line 29 –interpreted as short sale). It would have been obvious to one having ordinary

skill in the art at the time the invention was made to modify Stronach with the teachings of Gebb because such a modification would allow Stronach to have event tickets allocated to at least a distribution pool that can be distributed in accordance with a lottery distribution.

Claim 34. Stronach and Gebb failed to teach, the after- market trading comprises at least one auction. O'Keeffe teaches, the after- market trading comprises at least one auction (page 3, col. 2, paragraph [0032]).

Claim 35. Stronach and Gebb failed to teach, wherein the auction comprises an auction in which a payout of a certain minimum amount at a certain time is guaranteed to be made to the holder of a winning entry. O'Keeffe teaches, wherein the auction comprises an auction in which a payout of a certain minimum amount at a certain time is guaranteed to be made to the holder of a winning entry (page 4, col. 1, paragraph [0040]-[0041]).

Claim 36. this dependent claim is rejected for the similar rationale as given above for claim 35.

As for claims 34-36, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify in Stronach with the teachings of O'Keeffe because such a modification would allow Stronach to have event tickets allocated to at least a distribution pool that can be distributed in accordance with a lottery distribution.

Claim 37. Stronach and Gebb failed to teach, wherein the payout is money. O'keeffe teaches, wherein the payout is money (page 7, col. 2, paragraph [0078]-[0079]).

Claim 38. Stronach failed to teach, The method of claim 36, wherein the payout is a non-cash prize. Gebb teaches, The method of claim 36, wherein the payout is a non-cash prize (col. 7, line 53-col. 8, line 11).

Claim 39. Stronach failed to teach, The method of claim 36, wherein the payout comprises at least a portion of fees paid for the first set of entries during the distributing step. Gebb teaches, The method of claim 36, wherein the payout comprises at least a portion of fees paid for the first set of entries during the distributing step (col. 7, line 53-col. 8, line 43).

Claim 40. Stronach and Gebb failed to teach, wherein the payout is based on an amount of revenues generated by the distributing step. O'Keeffe teaches, wherein the payout is based on an amount of revenues generated by the distributing step (page 7, col. 2, paragraph [0079]-[0080]).

Claim 41. Stronach failed to teach, The method of claim 1, further comprising: using the computer system the step of receiving a commission or fee for the transfer of at least one entry. Gebb teaches, The method of claim 1, further comprising: using the computer system the step of receiving a commission or fee for the transfer of at least one entry (col. 7, line 53-col. 8, line 2).

Claim 42. Stronach failed to teach, The method of claim 1, wherein the trading begins as soon as at least one entry is distributed. Gebb teaches, The method of claim

1, wherein the trading begins as soon as at least one entry is distributed (col. 8, lines 12-22).

Claim 43. Stronach failed to teach, The method of claim 1, wherein the trading begins after all of the entries are distributed. Gebb teaches, The method of claim 1, wherein the trading begins after all of the entries are distributed (col. 8, lines 22-43).

Claim 44. Stronach failed to teach, The method of claim 1, wherein the trading begins after a predetermined number of entries are distributed. Gebb teaches, The method of claim 1, wherein the trading begins after a predetermined number of entries are distributed (col. 8, lines 44-67).

Claim 45. Stronach failed to teach, The method of claim 1, wherein the after-market trading is closed at a predetermined time. Gebb teaches, The method of claim 1, wherein the after-market trading is closed at a predetermined time (col. 8, lines 16-29).

Claim 46. Stronach failed to teach, The method of claim 1, wherein the trading is closed before the start of the activity Gebb teaches, The method of claim 1, wherein the trading is closed before the start of the activity (col. 7, lines 14-65).

Claim 47. Stronach failed to teach, The method of claim 1, wherein the trading is closed at the end of the activity. Gebb teaches, The method of claim 1, wherein the trading is closed at the end of the activity (col. 9, lines 1-24).

As for claims 37-47 it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify in Stronach because such a modification would allow Stronach to have event tickets for access to sporting events, plays, concerts, etc. either to hold the ticket(s) or to resell them in a lottery or auction.

Response to Arguments

Applicant's arguments filed 02/15/08 have been fully considered but they are not persuasive.

Issue no. 1: Applicants' argue: Independent claim 1 of the present application, as amended and submit that Stronach does not disclose, teach, or suggest each and every feature of Applicants' claim 1 has been considered but is not persuasive. Response: Applicants' are merely arguing the amendments to claim 1 making this argument moot.

Issue no. 2: Applicants' argue: Stronach does not disclose, teach or suggest both steps of "using the computer system executing a first initial distribution of the first set of entries to at least one buyer and "using the computer system, conducting trading of at least one of the entries included in the first distribution, between the at least one buyer and at least one seller" as recited in claim 1 has been considered but is not persuasive. Response: It is interpreted that Stronach does disclose "using the computer system, executing a first initial distribution of the first set of entries to at least one buyer because col. 1, page 3 [0044] recites "a personal computer (PC) or off-track betting (OTB) system enabled to practice in the system of the invention may be designed or established ..." and further goes on to disclose the player selecting the track and race from among choices ..." which is interpreted as a first distribution of a first set of entries to a buyer. Although it is not specifically recited in those exact words in col. 1, page 3 [0044] would lead one of ordinary skill in the art at the time the invention was made to interpret these limitations of claim 1 as being present. This would be predictable because in order for there to be any purchase by a buyer a first distribution of entries

has to occur. For example, in a lottery there has to be a first distribution of entries for someone to buy a lottery ticket(s) in order for there to be a winner(s). The using of the computer system, conducting trading of at least one of the entries included in the first distribution between the at least one buyer and at least one seller is merely an argument of the amendment to claim 1 and is moot in view of the grounds of rejection for this amendment as recited above in claim 1.

Issue no. 3: Applicants' argue: Stronach does not disclose, teach, or suggest "matching the at least one buy request with the at least one sell request" and transferring the at least one entry of the first set of entries from the second user to the first user as recited in claim 2 has been considered but is not persuasive. Response: It is interpreted that Stronach discloses the "matching the at least one buy request with the at least one sell request and transferring the at least one entry of the first set of entries from the second user to the first user on page 8, col. 2 [0079]-page 9, col. 1 [0080]-[0082] and page 17, col. 2 [0132].

Issue no. 4: Applicants' argue: Applicants' respectfully submit that the proposed Stronach-Gebb combination does not disclose, teach, or suggest the combination of claims elements recited in Applicants' claim 3 and there is no disclosure in Gebb of receiving, from a second user, a short order sale order associated with the at least one entry of the first set of entries," "matching buy order with the at least one short sale order to create a short sale" and "settling, at a predetermined time, the short sale" has been considered but is not persuasive. Response: Gebb does not use the terms "short sale". However, a "short sale" is interpreted as being a sale that takes place in a short

period of time ("predetermined amount of time from consignment") in col. 7, lines 42-52. Col. 8, lines 22-35 discloses the settlement of the short sale (predetermined amount of time).

Issue no. 5: Applicants' argue: Dependent claims 4-47 are not obvious over the proposed Stronach-Gebb-O'kaeffe combination for at least because claims 4-47 include the limitations of independent claim 1 which Applicants' have shown above to be allowable has been considered but is not persuasive. Response: The Examiner disagrees that the claims are allowable for the following reasons: Applicants' fail to appreciate the breadth of the claims. In particular determining an entry to be determined a winning entry based on the occurrence of an event associated with the activity. The activity can be any auction or lottery or buying and selling or betting or wagering or trading. The same goes for a winning entry and an occurrence of an event associated with the activity. The terms "activity" and "event" are very broad and can mean anything. Who or what determines the first set of entries in the activity?

A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Claims in a pending application should be given their broadest possible interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974).

During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow. *In re Zletz* 13 USPQ2d 1320 (Fed. Cir. 1989).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dixon Thomas can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Ella Colbert/
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